



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 8745561

Date: SEPT. 24, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner seeks classification as an alien of extraordinary ability in tourism. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally

recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner serves as board chairman and general manager of [REDACTED]  
[REDACTED] Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, the Director determined that the Petitioner fulfilled two criteria: leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii) and high salary at 8 C.F.R. § 204.5(h)(3)(ix). On appeal, the Petitioner asserts that he meets four additional criteria. After reviewing all of the evidence in the record, we conclude that the Petitioner does not establish that he satisfies the requirements of at least three criteria.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i)

The Petitioner claims eligibility for this criterion based on nine awards. In order to fulfill this criterion, a petitioner must demonstrate that he received the prizes or awards, and they are nationally or internationally recognized for excellence in the field of endeavor.<sup>1</sup> Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.<sup>2</sup>

The record shows that the Petitioner submitted evidence relating to the rankings of [REDACTED] ranked 79th (2017) and 95th (2018) in the [REDACTED] Top 100 [REDACTED] ranked 7th in the Top 10 [REDACTED] Agencies in 2018, and ranked 12th in the 2017 [REDACTED] Companies Market Value List. Although he submitted a letter from [REDACTED] which does not

<sup>1</sup> See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

<sup>2</sup> *Id.*

identify the author, crediting him for the company obtaining the rankings, the Petitioner did not demonstrate his receipt of the rankings. The description of this type of evidence the regulation provides that the focus should be on the alien's receipt, as opposed to his or employer's receipt.<sup>3</sup> Further, the Petitioner did not establish that such rankings qualify as nationally or internationally recognized prizes or awards for excellence consistent with this regulatory criterion.<sup>4</sup>

Regarding the remaining six awards, the Petitioner indicates in his brief to “*See also Exhibits 23 – 25 of RFE* [request for evidence].” (emphasis in original). However, these referenced exhibits relate to the rankings discussed above and do not show evidence pertaining to these awards. Nevertheless, the record reflects that the Petitioner submitted evidence under other exhibits relating to these awards. Although he includes quotation references and alludes to evidence, the Petitioner does not specifically identify the documentation. If it is the Petitioner's contention that certain documentation establishes his eligibility for a particular award, he does not articulate or distinguish the exhibits in this regard. Moreover, the Petitioner argues that each award “is a national level award whose scope covers all of [redacted].” The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires the prizes or awards to be nationally or internationally recognized for excellence in the field rather than simply national or international level awards.

The record reflects that the Petitioner received the “Influential Figure in Tourism of the Year” and “Most Inventive Figure” from [redacted] Tourism Billboard in 2016. The Petitioner submitted screenshots from various websites regarding the creation of the [redacted] Tourism Billboard. For instance, screenshots from sohu.com stated that “[t]he [redacted] Tourism Billboard was jointly launched by [redacted] and Tourism [redacted] and more than 20 most influential mainstream [redacted] across the country.” While several websites refer to the [redacted] Tourism Billboard awards “as the Oscar Award in [redacted] tourism industry” (travel.hexun.com), none of them explain or justify this assertion. Furthermore, besides listing the Petitioner as the winner of both awards, the websites do not discuss the significance of the Petitioner's specific awards in the field. In addition, [redacted] Tourism Billboard distributed awards in 25 categories with multiple winners in each category. For instance, the Petitioner received the “Influential Figure in Tourism of the Year” along with 13 other winners. On appeal, the Petitioner states that “[t]he award first takes place in finalist from several provinces before the final award is selected from the finalists of all of the provinces” and presents screenshots from four websites regarding the “2015 [redacted] Tourism Brand [redacted],” “2016 [redacted] Tourism Brand Awards [redacted],” “2016 [redacted] Tourism Brand Awards [redacted],” and the “2017 [redacted] Tourism Brand Awards [redacted] Awards.” Again, the issue for this criterion is not whether the award is national in scope but whether the award is nationally or internationally recognized for excellence in the field. Moreover, the documentation does not reference the standing of the “Influential Figure in Tourism of the Year” and “Most Inventive Figure” awards in the field.

The Petitioner also submitted screenshots from several websites showing that he was one of nine individuals to receive the “Top Ten Figures of the Year of 2016” from the first [redacted] Award at the [redacted] Tourism [redacted] Annual Summit. However, he did not demonstrate the field's recognition of this recently established award. On appeal, the Petitioner provides screenshots from dy.163.com promoting the ceremony and screenshots from sohu.com reporting on another individual who

<sup>3</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 6.

<sup>4</sup> The letter also lists seven other awards that [redacted] claims to have received; however, the Petitioner did not establish that he received them, nor did he show that they are nationally or internationally recognized for excellence in the field.

received a [ ] Award. Again, the screenshots do not discuss the significance of receiving a “Top Ten Figures of the Year” award by the field or its recognition as a national or international award for excellence in the field.

Further, the Petitioner presented evidence showing that he was named as one of the “2016 [ ] Tourism Top Ten Business Leaders” by [ ]. The record contains screenshots from [ ] com describing the awards ceremony, including listing each of the winners. However, the Petitioner did not establish that field recognizes the [ ] Tourism Top Ten Business Leader” as a national or international award for excellence in the field. On appeal, the Petitioner submits screenshots from two websites reporting on two other individuals who received the award and screenshots from mini.eastday.com that covered the ceremony. While the screenshots described the events of the ceremony, including the selection process and winners, they do not discuss the national or international significance of receiving a [ ] Tourism Top Ten Business Leader” award in the field. Here, the Petitioner did not show that the award is nationally or internationally recognized for excellence in the field beyond [ ].

Moreover, the record reflects that the Petitioner received the “2017 Most Socially Responsible Leader” from the [ ] *Evening News*. The Petitioner offered evidence about the [ ] *Evening News* and from the publication indicating the winners from the 60th Anniversary of [ ] *Evening News* celebration. However, the screenshots do not mention the field’s view of the “2017 Most Socially Responsible Leader” or establishes it as a nationally or internationally recognized award for excellence. The Petitioner does not offer any additional documentation regarding this award on appeal. Here, the Petitioner did not demonstrate that his award is recognized in his field as a national or international award for excellence outside of the [ ] *Evening News*.

Finally, the Petitioner received the “2017 [ ] Tourism Award – [ ]” from *National Tourism*. The Petitioner submitted screenshots from websites about the award ceremony, including [ ] and [ ] com reporting on the history of “[t]he scandal of ‘ballot rigging,’ ‘canvass’ has been frequently exposed” and “has been seriously affected by ‘ballot rigging’ and ‘canvassing for votes.’” Here, the Petitioner did not demonstrate that such reputation and history represents a nationally or internationally recognized award for excellence in the field. On appeal, the Petitioner does not submit any additional documentation, and the record does not establish that the field recognizes his “2017 [ ] Tourism Award – [ ]” as a national or international award for excellence.

For the reasons discussed above, the Petitioner did not show that he fulfills this criterion.

*Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.* 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner argues that “[he] and [ ], as a result of [his] leadership, are members of associations that requires outstanding achievements of their members as judged by recognized national or international experts.” In addition, he claims that [ ]A is a member of the [ ] [ ] and it was also cleared as Vice President Unit and [ ] is represented by [him] as its legal representative.” In order to satisfy this criterion, the Petitioner must demonstrate his membership in an association, and show that membership in the association is based

on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.<sup>5</sup>

The record contains a letter from [ ] secretary general of [ ], who indicated that “[t]he [ ] Touristic led by [the Petitioner] is a Member Unit of [ ]” Further, the record includes a certificate showing that “[ ] is the Vice President Unit of [ ].” In addition, the Petitioner submitted the “Articles of [ ]” reflecting in Article 7 that “[t]he members of the association shall be member units, and individual members shall not be admitted.” Therefore, the Petitioner is ineligible for membership with [ ]. The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires the “alien’s membership in associations” rather than a company’s membership in associations. As such, the Petitioner did not establish his eligibility for this criterion by virtue of [ ]’s membership with [ ].

Notwithstanding the above, the Petitioner did not demonstrate that [ ] requires outstanding achievements of its members, as judged by recognized national or international experts. According to [ ]’s articles, [ ] must recognize and support [ ]’s constitution, be willing to join the association, and be established in [ ] without a bad reputation. Here, the Petitioner did not establish that such requirements are tantamount to “outstanding achievements” consistent with this regulatory criterion. Although the articles indicate that membership is “[a]dopted by discussion of the Council or Standing Council, the Petitioner did not demonstrate that the Council or Standing Council is comprised of recognized national or international experts.

Accordingly, the Petitioner did not establish that he meets this criterion.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).*

The Petitioner contends that “[t]he articles submitted discussed [ ] as a company” and “[ ] is led and directed by [him] and [ ] has attributed to its success, receipt of awards, etc. to [his] work at the company.” In order to meet this criterion, the Petitioner must demonstrate published material about him in professional or major trade publications or other major media, as well as the title, date, and author of the material.<sup>6</sup> Thus, published material about [ ] does not qualify for this criterion.

At the outset, the Petitioner references “*See Exhibits 1 – 24 of Initial Submission.*” (emphasis in original). However, the record does not reflect the relationship between the majority of the exhibits and the published material criterion. For example, some of the exhibits relate to the Petitioner’s passports, [ ]’s business records, and recommendation letters. As discussed under the awards criterion, if it is the Petitioner’s contention that certain documentation establishes his eligibility for a

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<sup>5</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 6 (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual’s distinguished achievements in original research).

<sup>6</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

particular article, he does not articulate or distinguish the exhibits in this matter. Further, the inclusion of the title, date, and author of the material is not optional but a regulatory requirement. 8 C.F.R. § 204.5(h)(3)(iii). As indicated below, the Petitioner did not provide the date and/or author for the majority of the material. In addition, the Petitioner did not demonstrate that the material was published in professional or major trade publications or other major media.<sup>7</sup>

The Petitioner submitted articles from [redacted] (no author), and [redacted] (no author) reflecting interviews of him regarding [redacted] and the [redacted] industry; none of the articles discuss him or are otherwise about him. Articles that are not about an alien do not fulfill this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at \*1, \*7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor). Similarly, he included articles from kknnews.com, [redacted].com (no author), and [redacted].com (no author) in which the Petitioner provided quotes on behalf of [redacted] but the articles are not about him.

Likewise, the Petitioner provided articles from [redacted] (no author), [redacted] (no date and no author), [redacted] (no author) reporting on [redacted]; in fact, the Petitioner is never mentioned in any of the articles and do not reflect published material about him. Further, the Petitioner offered screenshots of videos or television coverage from [redacted] (no date and no author), [redacted] (no date and no author), [redacted] (no date and no author), and [redacted] (no date and no author) without any transcripts of the videos to show published material about him; nevertheless, the videos appear to be about [redacted]

On appeal, the Petitioner submits an article from [redacted] which includes the title and date, reflecting published material about him. However, the Petitioner did establish the author of the website article. In addition, the Petitioner did not demonstrate that [redacted] is a professional or major trade publication or other major medium.

For these reasons, the Petitioner did not show that he satisfies this criterion.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field.<sup>8</sup> For example, a petitioner may show that his contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

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<sup>7</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7 (indicating that evidence of published material in professional or major trade publications or in other major media publications should establish that the circulation (on-line or in print) is high compared to other circulation statistics).

<sup>8</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9 (finding that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

The Petitioner argues:

- Under [his] leadership and direction, [ ] launched the experience shop which was popularly received in [ ] and the tourism industry.
- Under [his] leadership and direction, [ ] has launched brand new cruise ship tours that have never been taken before and which have promoted cultural exchanges between [ ] and other countries.
- Under [his] leadership and direction, [ ] has created new routes and provided exclusive services.
- Under [his] leadership and direction, [ ] has grown to be a successful company that is listed on the stock market and worth hundreds of millions of dollars.

Here, the Petitioner claims eligibility for this criterion based on his contributions to [ ] rather than the majorly significant impact or influence those those contributions have had in the field.<sup>9</sup> Furthermore, although he references recommendation letters and submits Internet media articles showing [ ]'s activities, the Petitioner did not demonstrate how those business actions have been of major significance in the tourism industry. For instance, [ ]'s letter indicated that the Petitioner "pioneered the concept of 'tourism experience store' in the [ ] travel industry in 2013, which combines the tourism life with the tourism culture to inspire the [ ] consumers' good wishes for travel." However, [ ] did not further elaborate and explain how the "tourism experience store" significantly impacted the tourism field. Further, while the Petitioner presents Internet media articles reporting on the recent opening of the stores, the articles do not reflect how the stores have affected the field in a majorly significant manner.

Moreover, the Petitioner did not show how [ ]'s launching of new cruise ship tours or creating new tourism routes has been viewed in the field as being majorly significant. The Petitioner references letters and submits screenshots reflecting various examples of [ ]'s tour packages and events, such as Olympic venues; 46-day cruise ship tour around the South Pacific; cruise ship tours around [ ]'s four seas; and tour packages for the United Kingdom, Switzerland, Denmark, and the United States. While these may be new ventures for [ ] the Petitioner did not establish the originality of offering cruise ship tours and vacation destinations through a tourism agency. In addition, the Petitioner did not demonstrate the significance of these offerings in the field. For example, the Petitioner provides an article from [ ] indicating that [ ] signed a contract with the National Football League to "become the first tourism enterprise in [ ] conducting commercial operation of [S]uper [B]owl ticket." Here, the Petitioner did not show the impact that this offering, or any other of [ ]'s promotional or [ ] packages, has had on the field to be considered a contribution of major significance.

Finally, the Petitioner did not establish how [ ]'s listing on the stock market and company value reflect an original contribution of major significance in the field. While he references letters that praise [ ]'s reputation and repeats various tour packages, the Petitioner did not demonstrate how being listed on the stock market constitutes an original contribution in the field, let alone a contribution of

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<sup>9</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9; see also *Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

major significance. He did not show, for example, how [ ]'s stock market presence or value has significantly impacted or influenced the field in a major way.

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he has made original contributions of major significance in the field. Further, we considered the Petitioner's arguments and documentation under the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii).

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). Although the Petitioner has experience in the tourism industry, the record does not contain sufficient evidence establishing that he is among the upper echelon in his field.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.